IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

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WRIT PETITION NO : 17300 of 1998

Between:

The Depot Manager, A.P.S.R.T.C.,
Hyderabad II Depot.

..... PETITIONER

AND

1 S. Jaipal Reddy S/o Venkatarami Reddy,
Conductor, Tandoor Bus Depot, R/o Plot No.133,
Abhyudaya Colony, Near Chintalkunta, Hyderabad.
2 Labour Court I, Hyderabad,

Rep. by its Presiding Officer.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction, especially in the nature of a Writ of Certiorari, calling for the records relating to the impugned award dt: 30-12-1997 made in I.D.No.88/94, Labour Court.I, published on 12-2-1998, setting aside the order of removal dt: 14-3-1989 removing the 1st Respondent from service and directing his reinstatement into service with continuity of service and 50% back wages and attendant benefits, and quash the same as being invalid.

Counsel for the Petitioner: Ms. NANDA R RAO & MR. K.HARINATH

Counsel for Respondent No.1: MR. G.VIDYASAGAR

Counsel for Respondent No.2: GOVERNMENT PLEADER FOR LABOUR

The Court made the following:

ORDER:

This writ petition is filed by the Depot Manager, Andhra Pradesh State Road Transport Corporation, Hyderabad-II Depot (for short, 'the Management'), aggrieved by the award passed by the Labour Court-I, Hyderabad, in I.D.No.88 of 1994 dated 30-12-1997, wherein the claim petition of the first respondent-Workman was decided and the petitioner-Management was directed to reinstate him into service with continuity of service, 50% back wages and attendant benefits.

The first respondent-Workman laid a claim under Section 2A(2) of the Industrial Disputes Act, 1947 before the Labour Court-I, Hyderabad, being aggrieved by the removal order dated 14-03-1989 passed by the petitioner-Management and seeking reinstatement into service with continuity of service, attendant benefits and full back wages. It was the case of the Workman that the removal order passed by the Management was arbitrary and illegal. A detailed counter affidavit was filed by the petitioner-Management before the Labour Court denying the allegations made by the Workman. Before the Labour Court, none were examined on behalf of the Workman as well as the Management and no documents were marked on behalf of the Workman. However, on behalf of the Management, documents Exs.M-1 to M-43 were marked. After a detailed consideration of the entire evidence on record, the Labour Court came to the conclusion that in the circumstances, the impugned order of removal was set aside and the Workman was ordered to be reinstated with continuity of service, 50% of back wages and other attendant benefits.

I have given earnest consideration to the submissions made by the learned Counsel for the petitioner as well as the respondents and gone through the award passed by the Labour Court and other material made available on record. I am of the considered opinion that the Labour Court has taken a very lenient view of the matter though the Workman does not deserve such a treatment. Admittedly, the very dispute was raised with a delay of six and a half years and the Labour Court failed to see that the first respondent-Workman failed to issue tickets to as many as 51 passengers who boarded the bus at ex.stage 40 and were found alighting at stage No.42. The only explanation offered by the Workman-Conductor was that all the 51 passengers were Lambadis by caste and were in drunken state and he was not able to count them and when he was trying to stop the bus, they attempted to beat him and therefore, the bus was in movement without issuing tickets to them. He further

stated that in view of sudden rush in the bus and check was exercised within a short range, he could not issue tickets to them. While appreciating this evidence, the Labour Court came to the conclusion that it was quite possible the Workman-Conductor could not complete the formality of issuing tickets since the bus could not have been detained for a long length of period. Therefore, the Workman could not have given tickets and observed the issue and start rule. All the circumstances were appeared to be beyond the control of the Workman-Conductor. So far so good. But, however, the Labour Court, having observed that the Enquiry Officer was right in saying that the Workman ought to have detained the bus till the tickets were issued and the same was not done by the first respondent-Workman and therefore, the Workman is at fault, instead of inflicting severe punishment for the proved misconduct, just let off the Workman with denial of just 50% of back wages and extending all the attendant benefits with continuity of service etc. I am of the opinion that the Labour Court has grossly erred in extending the misplaced sympathies to the first respondent-Workman even while holding that the misconduct was proved. However, this writ petition was admitted way back in the year 1998 and the petitioner was reinstated into service and the Management was directed to pay 50% of the wages awarded by the Labour Court i.e. 25% of the wages. In the circumstances of the case, I am of the opinion that the award passed by the Labour Court is liable to be modified to suit the circumstances of the case.

In the result, the award of the Labour Court is modified to the following extent: The first respondent-Workman is entitled for reinstatement and continuity of service. However, he shall not be entitled to any wages and also not entitled for notional increment etc., for the period from the date of removal till the date of reinstatement.

With the above modification, the writ petition is disposed of.

No order as to costs. It is needless to mention that the petitioner-Management is at liberty to recover the amounts paid in pursuance of the interim orders of this Court in W.P.M.P.No.20630 of 1998, dated

02-07-1998.

C.V.RAMULU, J

15th June, 2005.

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Presiding Officer, Labour Court-I, Hyderabad.

2. Two CD copies.